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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,875	01/08/2002	Fung-jou Chen	13,042.3	5370

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KIMBERLY-CLARK WORLDWIDE, INC.
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EXAMINER

STEPHENS, JACQUELINE F

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

58

Office Action Summary

Application No.

10/042,875

Applicant(s)

CHEN ET AL.

Examiner

Jacqueline F Stephens

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9,16,40,42-71,74,78-88 and 91 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 85-88 and 91 is/are allowed.
- 6) ☒ Claim(s) 9,16,40,42-71,75-84 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 1/7/05 have been fully considered and they are partially persuasive. Applicant argues Ahr teaches away from structures having the claimed Wet Compressed Bulk values because 1)Ahr is directed to web that are dispersible and flushable; 2)Ahr discloses "temporary" wet strength resins that provide dispersibility during disposal; and Ahr teaches a preferred embodiment comprising 90% Eucalyptus fibers, which "is known in the art as being short in length and useful for softness and flexibility as opposed to wet resiliency". While Ahr does teach the use of a temporary wet strength resin and a dispersible napkin, Ahr also teaches the temporary wet strength resin helps the topsheet maintain its mechanical integrity during use of the napkin (col. 5, lines 20-23 and 30-32). Ahr teaches the napkin is dispersible with mild agitation conditions encountered when a conventional toilet is flushed (col. 4, lines 24-27). These conditions are not comparable to the conditions encountered when the napkin is being worn, i.e. the degree of water saturation and mechanical action. Therefore, one can not compare the dispersibility of a sanitary napkin under these disposal conditions to the conditions of wear. With respect to the Eucalyptus composition, Ahr also teaches the use of other fibrous materials, such as polymeric fibers- polyester, polypropylene, or polyethylene, which are known in the art to be used

Art Unit: 3761

in topsheets, acquisition and distribution layers, and absorbent cores to provide integrity and wet resiliency.

Arguments with respect to the Benz reference are persuasive.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 9, 16, 40, 42-71, 74, 78-84, and 90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahr USPN 5763044.

As to claims 9, 16, 42, 44, 45, 48, 49, 50, 54, 57, 59, 65, 67-69, 74, and 79-81, Ahr discloses an absorbent web capable of being used as a pad and having a dry feel

when wet (Abstract) comprising a cellulosic basesheet (col. 6, lines 40-45) having an upper surface and a lower surface, the upper surface having elevated and depressed regions (Figure 7). The web further comprises hydrophobic matter (col. 5, lines 63-65) preferentially on the elevated regions of the upper surface of the base sheet (Figure 7).

With respect to the dimensions of the web, the specification contains no disclosure of either the critical nature of the claim limitations nor any unexpected results arising therefrom. Ahr teaches hydrophobic fibrils on the topsheet for the same purpose, to improve the surface wetness characteristics of the topsheet by separating the wearer's body from any bodily fluids that may remain on the body side surface of the topsheet, thus providing the body surface with a pleasant tactile feel, therefore to provide the article of Ahr with the claimed surface depth would have been obvious and this modification is within the capabilities of one of ordinary skill in the art. More particularly, where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation, *In re Aller* et al, 105 USPQ 233.

Ahr does not disclosed the claimed performance test characteristics. However, pages 36 and 40-42 of the present application sets forth materials capable of being used in the dual-zoned web. Ahr teaches similar materials for the web as well as provides the method of making a wetlaid web, (col. 4, lines 27-55; col. 5, lines 63-65; col. 6, lines 40-55 and Figure 7). Thus, Ahr obviously includes a topsheet capable of having the claimed performance characteristics. When the structure recited in the

Art Unit: 3761

reference is substantially identical to that of the claims of the instant invention, claimed properties or functions are presumed to be inherent (MPEP 2112-2112.01). A *prima facie* case of either anticipation or obviousness has been established when the reference discloses all the limitations of a claim except a property or function and the examiner can not determine whether or not the reference inherently possesses properties which anticipate or render obvious the claimed invention but has basis for shifting the burden of proof as in *In re Fitzgerald*, 619 F.2d 67, 70 205 USPQ 594, 596 (CCPA 1980).

As to claim 40, Ahr discloses the basesheet is wetlaid (col. 4, lines 34-36).

As to claim 43, see Ahr, Figure 7.

As to claim 46, see Figure 7.

As to claims 47 and 52, see Figure 7, the hydrophobic matter comprises fibrils 54, which extend into the apertures of basesheet 52.

As to claims 51, 55, and 66, Ahr does not disclose the exact Rewet values. It is evident that Ahr has a value for this characteristic. Ahr recognizes that the choice of fibril length and fibril density can be varied and this will affect the rewet characteristics

(col. 5, lines 59-60). Ahr, therefore recognizes the Rewet value is a result effective variable of fibril length and density. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the article of Ahr with the claimed Rewet value, since discovering an optimum value of a result effective variable involves only routine skill in the art. Claim 55 additionally claims the base sheet comprises 20% or greater of high yield pulp fibers, which Ahr discloses (col. 4, lines 40-44).

As to claims 53 and 84, Ahr discloses superabsorbent on the base sheet (col. 10, lines 13-25).

As to claims 56, 78, 82, and 83, see Ahr, Figure 7.

As to claim 58, Ahr discloses the base sheet is airlaid (col. 4, lines 27-29).

As to claim 60, Ahr does not specifically disclose a fibrous nonwoven web. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to integrate the loose fibrils taught in Ahr in a nonwoven web, since forming in one piece an article, which has formerly been formed in several pieces and put together involves only routine skill in the art.

As to claim 61, Ahr discloses the hydrophobic matter comprises synthetic fibrils
54.

As to claim 62, Ahr does not specifically disclose the hydrophobic matter comprises polyolefin. Ahr discloses the fibrils are formed from a material, which is generally hydrophobic in nature. It is old and well known in the art, and therefore

obvious to use a polyolefin material, which is widely used in absorbent articles, particularly in the topsheet for its hydrophobic characteristics.

As to claim 63, see Ahr col. 7 through col. 10.

As to claim 64, see Figures 4, 5, and 7.

As to claims 70 and 71, Ahr discloses the basis weight of the base sheet is .058-14.6 g/m² (col. 10, lines 31-32), which is included in the range of from about 10-70 gsm. Ahr is silent on the basis weight of the hydrophobic matter. It is evident that Ahr has a value for this characteristic. Ahr recognizes that the choice of fibril length and fibril density, which is affected by the fibril basis weight, can be varied and this will affect the rewet characteristics (col. 5, lines 59-60). Ahr, therefore recognizes the function of the topsheet in terms of rewet, acquisition, and tactile feel is a result effective variable of fibril length and density. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the article of Ahr with the claimed basis weight of the hydrophobic matter, since discovering an optimum value of a result effective variable involves only routine skill in the art.

Allowable Subject Matter


7. Claims 85-88 and 91 are allowed.

Art Unit: 3761

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F Stephens whose telephone number is (571) 272-4937. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on (571)272-4390. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jacqueline F Stephens
Examiner
Art Unit 3761

March 21, 2005